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MALCOLM M. SYNIGAL, SR. and ANGELA M.
SYNIGAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

METROPOLITAN DIRECT PROPERTY
AND CASUALTY INSURANCE
COMPANY, a Rhode Island Corporation,

Plaintiff,

v.

MALCOLM M. SYNIGAL, SR., an
individual, and ANGELA M. SYNIGAL,
an individual, and DANITA KING, an
individual,

Defendants.

Case No. C-07-05466 WHA

**JOINT STATUS REPORT AND
STIPULATION FOR SHORT
CONTINUANCE OF CASE
MANAGEMENT CONFERENCE;
[PROPOSED] ORDER**

Date: July 17, 2008
Time: 11:00 a.m.
Courtroom: 9
The Honorable William H. Alsup.

STATUS OF UNDERLYING ACTION

This is an insurance coverage action that arises from an underlying civil lawsuit entitled *King v. Synigal*, Contra Costa County Superior Court Action No. C07 01910 (the “*King* action”). The *King* complaint states two causes of action, but substantively asserts three claims: 1) negligence against Malcolm and Angela Synigal [for negligently supervising their son]; 2) negligence against Marlin [claiming he was “negligent in the manner in which he accosted Plaintiff’s daughter,” which resulted in her death]; and 3) intentional tort against Marlin

1 [alleging he intentionally assaulted Nadawn Brown].¹

2 Discovery in the *King* action is underway. Plaintiff King will depose Mr. and Mrs.
3 Synigal on August 6. The parties have agreed to mediation, have selected a mediator, and must
4 complete mediation by the August 19, 2008 deadline imposed by the Court. A further Case
5 Management Conference in the trial court is scheduled for August 27, 2008. If the case has not
6 resolved by that time, the parties expect that a trial date will be assigned.

7 STATUS OF THIS INSURANCE COVERAGE ACTION

8 In this insurance action Metropolitan Direct seeks a declaration that the claims asserted
9 against the Synigals are not within the scope of coverage afforded by the policy. Alternatively,
10 Metropolitan seeks a declaration that the policy's intentional or criminal acts exclusion precludes
11 coverage for the Synigals.

12 The Synigals previously filed a motion to stay or dismiss this insurance action on the
13 ground that a declaration that coverage does not apply would require this Court to determine the
14 same factual issues that already are pending in both the state criminal and civil actions. This
15 Court granted the Synigals' motion to stay for a period of six-months, and scheduled the July 17,
16 2008 case management conference to revisit the status of the underlying proceedings.

17 Meanwhile, both Metropolitan Direct and the Synigals have expressed an interest in trying
18 to resolve the *King* action now, before defense costs mount and before additional fees are
19 incurred to prosecute the insurance declaratory relief suit. Counsel in this insurance action and
20 the *King* action have discussed the need for early mediation on numerous occasions. **All parties**
21 **intend to participate in mediation of the underlying *King* action, for purposes of resolving**
22 **both that case and the insurance litigation now pending before this Court.**

23 Because the mediation of the *King* action will not occur until the end of August, the
24 parties request that the July 17, 2008 status conference be continued to a date after August 27,
25 2008. That would allow sufficient time to complete the mediation process, and attend the case

26 ¹ A criminal complaint also was filed against Marlin Synigal in Contra Costa County Superior
27 Court in March 2006. That complaint alleges that on March 22, 2006, Marlin broke into the
28 house belonging to Nadawn Brown and killed her with a Dumbbell Bar. Marlin was charged with
murder and residential burglary. Marlin was determined to be incapable of standing trial, and so
the criminal proceedings have been suspended.

management conference for further scheduling if the mediation is not successful.

STIPULATION TO CONTINUE THE JULY 17 STATUS CONFERENCE

The parties to this action, by and through their respective counsel, therefore stipulate as follows:

1. Because the parties wish to participate in the mediation of the underlying *King* action, which is scheduled to take place the end of August 2008, the parties agree that this action should continue to be temporarily stayed.

2. The parties further stipulate and request that the case management conference currently set for July 17, 2008 be continued to a date after August 27, 2008, with an updated joint status report due 7 days prior to the new case management conference date.

DATED: July 9, 2008

LOMBARDI, LOPER & CONANT, LLP

By: /s/ Lori A. Sebransky
LORI A. SEBRANSKY
Attorneys for defendants Malcom M. Synigal, Sr. and
Angela M. Synigal

DATED: July 9, 2008

CHARLSTON, REVICH & CHAMBERLIN, LLP

By: /s/ Stephen P. Soskin
STEPHEN P. SOSKIN
Attorneys for plaintiff Metropolitan Direct Property and
Casualty Insurance Company

DATED: July 9, 2008

LAW OFFICES OF CLARENCE LIVINGSTON, JR.

By: /s/ Clarence Livingston, Jr.
CLARENCE LIVINGSTON, JR.
Attorneys for defendant Danita King

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ORDER

IT IS HEREBY ORDERED that

1. This action continues to be temporarily stayed.

2. A further status conference is set for _____, 2008 at 10:00 a.m. An updated joint status report must be filed by _____, 2008.

DATED: _____

HON. WILLIAM H. ALSUP
JUDGE OF THE DISTRICT COURT